

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	CASE NO. 8:10CR317
)	
Plaintiff,)	
)	
vs.)	TENTATIVE FINDINGS
)	
JEFFREY R. DUNAGAN,)	
)	
Defendant.)	

The Court has received the Revised Presentence Investigation Report ("PSR") and the government's objections thereto (Filing No. 60). The Defendant objected informally to the probation officer, as indicated in the PSR. However, the Defendant did not file objections as required by the sentencing order. See "Order on Sentencing Schedule," ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

The government objects to the quantity of controlled substance and base offense level attributed to the Defendant in ¶¶ 29 and 36. The plea agreement recommends a base offense level of 30 based on a quantity of at least 350 but less than 500 grams of a mixture or substance containing methamphetamine. The PSR reflects a base offense level of 32 based on a higher drug quantity. The Court's tentative findings are that, absent unusual circumstances, the plea agreement should be upheld and the base offense level should be calculated as level 30.

IT IS ORDERED:

1. The Court's tentative findings are that the government's objections (Filing No. 60) to the PSR are granted;

2. The parties are notified that my tentative findings are that otherwise the PSR is correct in all other respects;

3. If **any** party wishes to challenge these tentative findings, the party shall file, as soon as possible but in any event before sentencing, and serve upon opposing counsel and the court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

4. Absent submission of the information required by paragraph 3 of this order, my tentative findings may become final; and

5. Unless otherwise ordered, any motion challenging these tentative findings will be resolved at sentencing.

DATED this 7th day of February, 2011.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge